

**ZONING BOARD OF ADJUSTMENT
RARITAN TOWNSHIP, NEW JERSEY**

MARCH 5, 2020

MINUTES

1. CALL TO ORDER:

The meeting was called to order by Chairperson Cynthia Schaefer at 7:30 p.m.

2. NOTICE REQUIREMENTS:

The notice requirements of the Open Public Meetings Act were read into the record by Chairperson Cynthia Schaefer.

3. ROLL CALL:

Board Members Present:

Cynthia Schaefer, Chairperson
Kevin Kuhl
Alicia Dominguez
Randy Block
Roger Ahrens
Jeff Anclien

Members Absent:

John Gudelis
Steve Farsiou
Jim Ferraro

4. ALSO PRESENT:

Antoine Hajjar, Township Engineer
Jeff Zaccarella, Assistant Township Engineer
Jessica Caldwell, Planner

5. APPEARANCES:

MESSRS. STICKEL, KOENIG, SULLIVAN & DRILL, LLC
571 Pompton Avenue
Cedar Grove, New Jersey 07009
Attorneys for the Zoning Board of Adjustment
BY: JONATHAN E. DRILL, ESQ.

MESSRS. WATTS, TICE & SKOWRONEK
171 Main Street
Flemington, New Jersey 08822
Attorneys for Penn Partners, LLC
BY: C. GREGORY WATTS, ESQ.

A motion was made by Chairperson Schaefer to accept the absences of John Gudelis, Steve Farsiou, and Jim Ferraro, seconded by Kevin Kuhl.

(On roll call, all members voted in the affirmative.)

6. BOARD MEMBERS AND COUNSEL:

- a. **Comments:** None
- b. **Announcements:** None
- c. **Distribution and Correspondence:**

Attorney Drill indicated that in the matter of the application of Duck Flats, LLC scheduled for this evening, there was no appearance. Attorney Steven Gruenberg, Esq. of Flemington, New Jersey represented the Luster application, which started out as an Interpretation of a lawfully created, pre-existing, non-conforming use.

At the first hearing session the applicant introduced evidence including prior ordinances.

Attorney Gruenberg stated that Duck Flats, LLC, is scheduled to close on the property, and will then apply for a variance and/or an Interpretation at a later date.

The matter was adjourned until April 2, 2020 at 7:30 p.m.

d. **Minutes:** None

7. RESOLUTIONS:

(A) RESOLUTION #2019-19
The Hieber Family Limited Partnership
356 Highway 31
Flemington

Kevin Kuhl made a motion that Resolution Number 2019-19 be adopted, seconded by Randy Block.

(On roll call, all eligible members voted in the affirmative. Roger Ahrens abstained.)

(B) RESOLUTION #2019-20
Jozef and Yarka Kepic
85 Everitts Road

A motion was made by Chairperson Cynthia Schaefer to adopt Resolution Number 2019-20, seconded by Randy Block.

(On roll call, all eligible members voted in the affirmative.)

(C) RESOLUTION #2019-21
National Mosaic Company, LLC
20 Johanna Farms Road

Alicia Dominguez made a motion to adopt Resolution Number 2019-21, seconded by Randy Block.

(On roll call, all eligible members voted in the affirmative. Roger Ahrens abstained.)

**(D) RESOLUTION #2019-23
Flemington Water Department
37 Shields Avenue**

This matter was adjourned until the March 19, 2020 meeting.

8. APPLICATIONS:

- (A) Board of Adjustment Case No. 22-2019
APPLICANT: Linda Matos
LOCATION: Block 75, Lot 6
318 Old York Road
APPLICATION: Certification of a Pre-Existing
Non-Conforming Use**

Attorney Drill stated that this is an application that began at the February 20, 2020 meeting. Testimony was presented and the Board was satisfied that the applicant had proved Buildings 1 and 2 existed in 1953.

This application was continued to this evening so the applicant could produce witnesses from out of state that were unable to attend, but the Board agreed to hear the testimony via Skype or Facebook.

Joan Jensen of Missouri, and Katherine Verdolini Abbott of Pennsylvania appeared via Facebook and testified as to the property when they lived there which was in 1957. Neither of the witnesses could recall whether there was a kitchen or bathroom in the third building. They indicated it was converted from storage to a living unit in 1962.

Attorney Drill indicated that even after the testimony there was still a gap on the third building, but that the applicant could apply for a use variance on that.

Attorney Drill suggested the applicant could return the following month and apply for a use variance. He stated that Buildings 1 and 2 could be approved with conditions including requests made by the Fire Marshall, as well as the removal of unregistered vehicles from on the property.

Roger Ahrens moved the application be granted as to the first two buildings, seconded by Jeff Anclien.

(On roll call, all eligible members voted in the affirmative.)

Attorney Drill suggested the applicant could amend the application and request a use variance immediately, in order to appear before the Board for their April 2nd hearing.

(B) Board of Adjustment Case No. 02-2020
APPLICANT: Matthew Malfitano
LOCATION: Block 79.13, Lot 10
5 Claridge Lane
APPLICATION: C Variance for a Generator

Engineer Hajjar indicated that this application is to place an accessory structure in the front yard, which is not permitted. It is a corner lot. Matthew Malfitano, Jeff Zaccarella and Antoine Hajjar were sworn as witnesses.

Attorney Drill indicated that in the engineer's report, which is dated March 2nd, and on the second page of his memo, he showed photographs. He drew in a 4-foot-high vinyl fence and there are 16 photos.

The witness indicated that he had taken the photos, and that they accurately represent the conditions on the site. The Engineer stated that the shrubs are too short. The other concern is the distance of the generator from the street. It cannot be located at that point, because it has to be 5 feet from the edge of the window.

The applicant stated that he did not want the 4-foot vinyl fence but would prefer to put in landscaping. Attorney Drill indicated that if the Board approves the application, the applicant is at risk to comply with the UCC Rules, and if he doesn't comply the approval would be null and void.

At the time of planting, the landscaping must be a minimum of 4 feet high to screen the existing condenser and proposed generator.

The applicant objected to having to put in 4-foot-high trees, and therefore, the Board agreed to adjourn the hearing until the March 19th meeting to give the applicant an opportunity to discuss the matter with John Morgan Thomas, the Township's Landscape Architect to determine what could be located in that area.

- (C) **Board of Adjustment Case No. 12-2019**
APPLICANT: Penn Partners, LLC
LOCATION: Block 71, Lot 8.01
Route 202/31
APPLICATION: Preliminary/Final Site Plan with Variances

Before the meeting on Penn Partners, LLC began, Kevin Kuhl and Randy Block recused themselves from the hearing. Three Board members were absent. C. Gregory Watts of the Law Firm Watts, Tice & Skowronek, 171 Main Street, Flemington, New Jersey appeared on behalf of the applicant with his witnesses, Wayne Ingram, Engineer, and James Necker, his Architect.

The matter was adjourned until May 7, 2020 in order to have sufficient members available to hear the matter.

9. NEXT BOARD MEETINGS:

The next Board meetings will be March 19, 2020, and April 2, 2020.

10. ADJOURMENT

A motion was made to adjourn the hearing.

Respectfully submitted,

Jacqueline Klapp

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